

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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***Ex parte*** CYNTHIA E. SPELLMAN, DANIEL DODGE, JANE K. SELLBERG

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Appeal No. 2001-0330  
Application 08/852,654

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ON BRIEF

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Before JERRY SMITH, FLEMING, and RUGGIERO, ***Administrative Patent Judges.***

FLEMING, ***Administrative Patent Judge.***

***DECISION ON REQUEST FOR RECONSIDERATION***

Appellants request that we reconsider and modify our decision dated January 16, 2003 to correct a tabulation error and consider the means-plus-function limitations in claims 24 through 26, 29 through 30, 32 and 33.

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Appellants point out correctly that our decision on page 11 states "we cannot sustain the rejection of claim 6" but then states in the conclusion on page 14 of our decision that we sustain the rejection of claim 6. From reading our opinion, it is clear that this is a typographical error. The last paragraph on page 14 is corrected to read as follows:

In conclusion, we sustain the rejections of claims 1-5, 7 and 20-36 under 35 U.S.C. § 103. We cannot sustain the rejection of claims 6 and 8-19 under 35 U.S.C. § 103. This corrects the typographical error and does not change our decision.

Appellants now present new arguments that we should consider the means-plus-function limitations in claims 24 through 26, 29 through 30, 32 and 33. However, these new arguments were not presented in the Appellants' brief nor have Appellants addressed why these arguments were not presented earlier in the brief.

37 CFR § 1.192 (a) as amended at 58 Fed. Reg. 53196, October 10, 1999, which was controlling at the time of Appellants' filing of the reconsideration, states as follows:

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Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.

Appellants have not shown good cause as to why these arguments were not presented earlier in the brief. Therefore, we will refuse to consider these arguments in the request for reconsideration.

In view of the foregoing, Appellants' request for reconsideration is granted to the extent that we have corrected the typographical error but is denied as to making any change to our decision therein.

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No time period for taking any subsequent action in  
connection with this appeal may be extended under 37 CFR  
§ 1.136(a).

**DENIED**

JERRY SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
MICHAEL R. FLEMING	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
JOSEPH F. RUGGIERO	)	
Administrative Patent Judge	)	

JFR:pgg

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